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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
10 **(HON. DANA M. SABRAW)**

11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 v.

14 **JOSE ALFREDO AGUILAR-PEDRASA,**

15 Defendant.

Case No. 08-CR-1444-DMS

Date: September 12, 2008

Time: 11:00 a.m.

**NOTICE OF MOTION AND
MOTION TO:**

**1) DISMISS THE INDICTMENT;
AND
2) LEAVE TO FILE FURTHER
MOTIONS**

17 TO: KAREN L. HEWITT, UNITED STATES ATTORNEY, and
18 AARON CLARK, ASSISTANT UNITED STATES ATTORNEY

19 PLEASE TAKE NOTICE that on Friday, September 12, 2008, at 11:00 a.m., or as
20 soon thereafter as counsel may be heard, the defendant, Jose Alfredo Aguilar-Pedrasa, by and
21 through his counsel, Robert L. Swain, will move this Court to grant the above-entitled
22 motions.

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MOTIONS

The defendant, Jose Alfredo Aguilar-Pedrasa, by and through his counsel, Robert L. Swain, and pursuant to Rules 6(e), 12, and 16 of the Federal Rules of Criminal Procedure and the Fourth, Fifth and Sixth Amendments to the United States Constitution, and all applicable local rules, hereby moves this court to

1) dismiss the indictment; and

2) leave to file further motions

These motions are based upon the attached memorandum, the files and records in the above-captioned matter, and any and all other evidence brought before this court before or during the hearing on this motion.

Respectfully submitted,

Dated: August 14, 2008

/s/ Robert L. Swain

ROBERT L. SWAIN

Attorney for Defendant